

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

FREDERICK CRUMBLEY	§	
v.	§	CIVIL ACTION NO. 9:09cv194
GREGORY DAWSON, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Plaintiff Frederick Crumbley, an inmate of the Texas Department of Criminal Justice, Correctional Institutions Division proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

An evidentiary hearing was conducted on March 23, 2010, on the present case and another lawsuit which Crumbley filed, which was cause no. 9:09cv14. At this hearing, Crumbley testified that the two lawsuits encompassed essentially the same incidents. As a result, the Magistrate Judge issued a Report on May 28, 2010, recommending that the present case be dismissed as duplicative. The other lawsuit is currently proceeding.

Crumbley filed objections to the Magistrate Judge's Report on June 18, 2010. In his objections, Crumbley states that despite his testimony, the lawsuits are in fact different. However, the records show that Crumbley's amended complaint of June 26, 2009, in cause no. 9:09cv14, covers the same incidents which form the basis of the claims in cause no. 9:09cv194. This is

consistent with Crumbley's testimony at the hearing that the cases were over the same incidents. Crumbley's objections to the contrary are without merit.

The Court has conducted a careful *de novo* review of the pleadings and testimony in this case and in cause no. 9:09cv14, the Report of the Magistrate Judge, the Plaintiff's objections thereto, and all other pleadings, documents, and records in the case. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Plaintiff's objections are without merit. It is accordingly

ORDERED that the Plaintiff's objections are overruled and the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED with prejudice as frivolous and duplicative. The dismissal of this lawsuit shall have no effect upon any of the claims and defendants currently pending in cause no. 9:09cv14. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby DENIED.

So **ORDERED** and **SIGNED** this 7 day of **July, 2010**.



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Ron Clark, United States District Judge